



April 28, 2016

Members of Congress:

On behalf of the [Competitive Enterprise Institute \(CEI\)](#), we wish to express CEI's full support for [Joint Resolution 88](#), the resolution pursuant to the Congressional Review Act to disapprove the Department of Labor fiduciary rule.

Congress must disapprove this regulation for many reasons, the first being the Obama administration's blatant disregard of the statute that Congress wrote. The Employee Retirement Income Security Act of 1974 gives the Department of Labor very limited authority over employment-based pensions. It in no way authorizes the Labor Department to redefine the term "fiduciary"—much less in a way that differs from decades-old interpretations of the term from the Securities and Exchange Commission and state common law precedent—in order to bring a broad swath of financial professionals under its jurisdiction.

In the proposed rule, the Labor Department didn't even bother to try to disguise its contempt for the intelligence of American savers. It says, most individuals "cannot prudently manage retirement assets on their own," and that improved disclosure won't help because savers "generally cannot distinguish good advice, or even good investment results, from bad." The Labor Department has never disavowed this outrageous justification for the rule.

The rule would [restrict both choices and access](#) to investment guidance for middle- and lower-income savers. After the United Kingdom barred brokers from receiving third-party commissions in 2013, as the fiduciary rule effectively does, studies found a guidance gap in which savers with less than \$240,000 in assets could not get their accounts serviced by a broker or adviser.

Congress must assert its authority to stop this clear executive overreach so harmful to hard-working families saving for their retirement.

Thank you for your time. We hope you take our thoughts into consideration.

Sincerely,  
Kent Lassman  
President, Competitive Enterprise Institute

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